

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROJELIO A. GUILLEN,
Petitioner,

v.

CLARK DUCART,
Respondent.

Case No. [16-cv-03637-WHO](#) (PR)

ORDER REOPENING ACTION;

**ORDER DIRECTING PETITIONER
TO PAY THE FILING FEE ON OR
BEFORE OCTOBER 3, 2016**

Dkt. Nos. 10 and 12

This order addresses petitioner Guillen's motion to reopen and his application to proceed *in forma pauperis* ("IFP").

This federal habeas action was dismissed because Guillen failed to comply with the Court's order to file a complete application to proceed IFP, or pay the filing fee of \$5.00. He since has filed a complete IFP application and a motion to reopen. (Dkt. Nos. 10 and 12.) The motion to reopen is GRANTED. The action is REOPENED. The Clerk shall amend the docket accordingly. The judgment (Dkt. No. 8) and the order of dismissal (Dkt. No. 9) are VACATED.

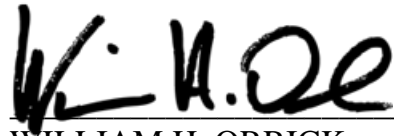
Guillen's IFP application is DENIED because he can afford to pay the filing fee. The Certificate of Funds shows that the average deposits to his account for the six months preceding the filing of the IFP application were \$50.00, and the average balance in his account for the same time period was \$50.46. **Guillen shall pay the \$5.00 filing fee in**

this matter by submitting payment to the Clerk of the Court on or before October 3, 2016. His failure to do so will result in the dismissal of this action for failure to prosecute under Federal Rule of Civil Procedure 41(b), and without further notice to him.

The Clerk shall terminate Dkt. Nos. 10 and 12.

IT IS SO ORDERED.

Dated: August 31, 2016

A handwritten signature in black ink, appearing to read 'W. H. Orrick', written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge

United States District Court
Northern District of California